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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/485,267

01/23/2004

James Robert Murray

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1718

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EXAMINER

KANTAMNENI, SHOBHA

ART UNIT

PAPER NUMBER

1617

MAIL DATE

DELIVERY MODE

07/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/485,267	Applicant(s) MURRAY ET AL.	
	Examiner Shobha Kantamneni	Art Unit 1617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: NONE.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-5.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See page 2.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/SREENI PADMANABHAN/
 Supervisory Patent Examiner, Art Unit 1617

11. All rejections of record in the Final Office Action April 14, 2008 are maintained in view of the proposed amendment After Final not entered. Applicant's remarks/arguments filed on June 16, 2008 after FINAL with respect to all rejections made under 35 U.S.C. 112, first paragraph, and under 35 U.S.C. 103(a) have been fully considered but are unpersuasive in view of not entered proposed amendment, as discussed in the Final Rejection, and those found below.

Response to Applicant's Arguments:

Applicant argues that "Applicant respectfully disagrees with the Examiner's assertion in view of the following Reason 2) is without basis because there is no suggestion in the cited prior art that acetylcholinesterase inhibitors generally can be used in the treatment of attention deficit disorders, hyperkinesis. Furthermore, reason 1) provides the skilled person with no motivation to use galantamine for treating attention deficit disorder because galantamine's known effect in alleviating side effects associated with benzodiazepines does not imply or suggest that galantamine itself could have an effect on attention deficit disorders." These arguments have been considered, but not found persuasive. Snorrason teaches that acetylcholinesterase inhibitor, galantamine is employed in combination with benzodiazepines (page 5, §1) in the treatment of attention deficit disorder e.g. hyperactivity of children to alleviate the undesirable side effects of the benzodiazepines. Gliichi teaches that acetylcholinesterase inhibitors can be employed in the treatment of attention deficit disorder, hyperkinesis. Accordingly, it would have been obvious to one of ordinary skill in the art to utilize the specific acetylcholinesterase inhibitor, galantamine for treating attention deficit disorder. There is clear motivation to administer galantamine for treating attention deficit disorder because acetylcholinesterase inhibitors are known be used in the treatment of attention deficit disorder, hyperkinesis, and galantamine is an acetylcholinesterase inhibitor. Accordingly, it would have been obvious to one of ordinary skill in the art to utilize the specific acetylcholinesterase inhibitor, galantamine with reasonable expectation of success of treating attention deficit disorder.